

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Jun 01, 2023

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

OTR WHEEL ENGINEERING, INC.,
BLACKSMITH OTR, LLC, AND
F.B.T. ENTERPRISES, INC.,

Plaintiff,

vs.

WEST WORLDWIDE SERVICES,
INC., and SAMUEL J. WEST,
individually and his marital community,
SSL Holdings, Inc., SSL Global, Inc.,
SSL China LLC, and Qingdao STW
Tire Co., Ltd.,

Defendants.

No. 2:14-CV-00085-LRS

ORDER GRANTING DEFENDANTS'
MOTION FOR EXECUTION OF
ORDER 879 AND DISBURSEMENT
OF THE BOND

1 BEFORE THE COURT is Defendants' Motion for Execution of Order 879
2 and Disbursement of the Bond. ECF No. 884. The motion was heard without oral
3 argument.

4 The procedural history has been previously set forth in detail. ECF No. 879
5 at 2-15. On May 16, 2014, pursuant to this Court's order granting a preliminary
6 injunction, Plaintiffs (OTR) filed an injunction bond in the amount of \$1,800,000.
7 ECF Nos. 46, 47. On November 8, 2016, pursuant to this Court's post-trial order,
8 the bond was increased to \$3,000,000. ECF No. 597, 615. In 2021, the Ninth
9 Circuit found the preliminary injunction was wrongful and the matter was
10 remanded "so the district court can allow discovery regarding potential injunction
11 damages for the entire relevant time period and consider whether that additional
12 discovery changes its damages analysis." *OTR Wheel Eng'g, Inc. v. W. Worldwide*
13 *Servs., Inc.*, 842 F. App'x 16 (9th Cir. 2021). On March 10, 2023, this Court
14 entered an order granting Defendants' (West) renewed motion for recovery of cash
15 bond and instructing that the entirety of the \$3,000,000 cash bond posted by OTR
16 shall be forfeited to West pending expiration of the time for appeal. ECF No. 879.
17 West filed this motion for execution of the bond order and disbursement of the
18 bond on April 17, 2023. ECF No. 884.

19 OTR argues the bond order, ECF No. 879, should not be executed because
20 the appeal period has been tolled under Fed. R. App. P. 4(a)(4)(A)(iv) by its filing

1 of a Fed. R. Civ. P. 59 motion to amend judgment on April 7, 2023. ECF Nos.
2 883, 888. OTR's Rule 59 motion requests the Court amend the judgment entered
3 on March 10, 2023, as to interest on judgment amounts awarded to OTR. ECF No.
4 883. However, the Court finds that the Rule 59 motion is unrelated to the bond
5 issue and does not toll the appeal period as to the bond order for the reasons set for
6 in West's reply brief, ECF No. 890.

7 The Court's Order granting West's motion for recovery on the injunction
8 bond was a "final decision" pursuant to 28 U.S.C. § 1291 and was appealable to
9 the Ninth Circuit Court of Appeals. *See* 28 U.S.C. § 1291 (giving the courts
10 of appeals "jurisdiction of appeals from all final decisions of the district
11 courts"); *OTR Wheel Eng'g, Inc. v. W. Worldwide Servs.*, 842 F. App'x 16, 16 (9th
12 Cir. 2021). No notice of appeal was timely filed regarding the March 10, 2023
13 bond order, ECF No. 879, so that order is no longer held in abeyance.


14 Having determined that Defendants are entitled to recovery on the bond in
15 the full amount, the Court finds no reason to further delay execution of the order
16 directing disbursement of the surety bond issued by Hartford Fire Insurance
17 Company (ECF Nos. 47, 615).

18 Accordingly, **IT IS HEREBY ORDERED:**

19 1. Defendants' Motion for Execution of Order 879 and Disbursement of
20 the Bond, **ECF No. 884**, is **GRANTED**.

IT IS SO ORDERED. The District Court Clerk is directed to enter this order and to provide copies to counsel.

DATED June 1, 2023.



LANNY R. SUKO
Senior United States District Judge